



PTO/SB/21 (09-04)

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FORM**

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Total Number of Pages in This Submission

Application Number 09/783,608

Filing Date February 15, 2001

First Named Inventor Roundtree

Art Unit 2141

Examiner Name Luu, Le Hien

Attorney Docket Number 109927-130479

**ENCLOSURES (Check all that apply)**

<input checked="" type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance Communication to TC
<input checked="" type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Amendment/Reply	<input type="checkbox"/> Petition	<input checked="" type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Power of Attorney, Revocation	<input type="checkbox"/> Status Letter
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**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT**

Firm Name	Schwabe, Williamson & Wyatt, P.C.		
Signature			
Printed name	Robert C. Peck		
Date	September 19, 2005	Reg. No.	56,826

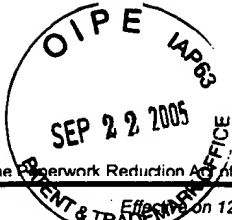
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Signature			
Typed or printed name	Yvette L. Chriscaden	Date	September 19, 2005

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Effective on 12/08/2004.  
Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).**FEE TRANSMITTAL**  
**For FY 2005**☐ Applicant claims small entity status. See 37 CFR 1.27**TOTAL AMOUNT OF PAYMENT** (\$) 500**Complete if Known**

Application Number	09/783,608
Filing Date	February 15, 2001
First Named Inventor	Roundtree
Examiner Name	Luu, Le Hien
Art Unit	2141
Attorney Docket No.	109927-130479

**METHOD OF PAYMENT (check all that apply)**☒ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): \_\_\_\_\_☒ Deposit Account Deposit Account Number: 500393 Deposit Account Name: Schwabe Williamson et al.

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee☒ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 ☒ Credit any overpayments**WARNING:** Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**FEE CALCULATION****1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

**2. EXCESS CLAIM FEES****Fee Description**

	Fee (\$)	Small Entity Fee (\$)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	200	100
Multiple dependent claims	360	180

<b>Total Claims</b>	<b>Extra Claims</b>	<b>Fee (\$)</b>	<b>Fee Paid (\$)</b>	<b>Multiple Dependent Claims</b>
- 20 or HP =	x	=		<b>Fee (\$)</b> <b>Fee Paid (\$)</b>

HP = highest number of total claims paid for, if greater than 20.

<b>Indep. Claims</b>	<b>Extra Claims</b>	<b>Fee (\$)</b>	<b>Fee Paid (\$)</b>
- 3 or HP =	x	=	

HP = highest number of independent claims paid for, if greater than 3.

**3. APPLICATION SIZE FEE**

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

<b>Total Sheets</b>	<b>Extra Sheets</b>	<b>Number of each additional 50 or fraction thereof</b>	<b>Fee (\$)</b>	<b>Fee Paid (\$)</b>
- 100 =	/ 50 =	(round up to a whole number) x	=	

**4. OTHER FEE(S)**

Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): Appeal Brief Filing Fee**Fees Paid (\$)**

500

**SUBMITTED BY**

Signature

Registration No. 56,826  
(Attorney/Agent)

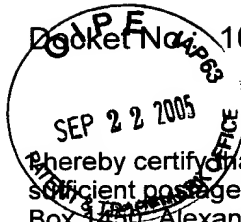
Telephone 503 222 9981

Name (Print/Type) Robert C. Peck

Date September 19, 2005

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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By: Yvette L. Christaden Date: September 19, 2005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Before the Board of Patent Appeals and Interferences

App. No. : 09/783,608 Confirmation No.: 9399  
 Inventor : Brian Roundtree  
 Filed : February 15, 2001  
 Title : RENDERING DATA USING RENDERING  
 INSTRUCTIONS BASED UPON CONCEPT  
 IDENTIFIERS FOR THE DATA  
 Art Unit : 2141  
 Examiner : Luu, Le Hein  
 Customer No. : 25,943

MAIL STOP: APPEAL BRIEF-PATENTS  
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**APPELLANT'S BRIEF IN SUPPORT OF APPELLANT'S APPEAL  
 TO THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Dear Sir:

This appeal furthers the Notice of Appeal filed on July 19, 2005. The appeal arises from a final decision by the Examiner in the final Office Action, dated April 21, 2005. The final decision was in response to arguments filed on October 18, 2004, in response to an earlier office action, mailed July 9, 2004.

Appellants submit this *Brief on Appeal* in triplicate, including payment in the amount of \$500.00 to cover the fee for filing the *Brief on Appeal*. Appellants respectfully request consideration of this appeal by the Board of Patent Appeals and Interferences for allowance of the present patent application.

**Real Party in Interest:**

This application is assigned to Action Engine, Inc., having a principal place of business at 8520 154<sup>th</sup> Avenue NE, Redmond, Washington 98052. The assignment is recorded at the United States Patent and Trademark Office, reel 011565, frame 0483.

**Related Appeals and Interferences:**

To the best of Appellants' knowledge, there are no related appeals or interference proceedings currently pending, which would directly affect or be directly affected by or have a bearing on the Board's decision in this appeal.

**Status of Claims:**

Appellants appeal the rejection of claims 1-20. Claims 1-20 were pending and were rejected in the Final Office Action dated April 21, 2005. Claims 1-20 are reproduced, as pending, in Appendix A.

**Summary of the Claimed Subject Matter:**

As stated in the first paragraph on page 1 of the specification of the instant application, the invention relates to an apparatus and method for rendering data using rendering instructions for data elements and interaction instructions for interactive elements. The data **158** includes concepts representing data elements and having associated concept identifiers **156**. **See page 18, lines 1-7**. Using the concept identifiers, a system server **10** retrieves rendering instructions **160** for the corresponding data element in order to present the data element on a display **128** of a requestor **12**. **See page 7, lines 13-18; page 13, lines 16-20; and page 18, lines 1-7**. For interactive elements **164** that can be selected by a user, the system server **10** retrieves interaction rules in order to determine how to render data for the interactive element based upon the user's selection of it. **See page 7, lines 13-18; page 13, lines 16-20; and page 19, lines 19-22**.

**Grounds For Rejection To Be Argued On Appeal:**

- I. Claims 1, 5-10, 11, and 15-20 stand rejected under 35 U.S.C. §102(b) over the teachings of U.S. Patent No. 5,748,188 to *Hu, et al.* (hereinafter “HU”).
- II. Claims 2-4 and 12-14 stand rejected under 35 U.S.C. § 103(a) over the teachings of HU, and in further view of RFC 1-866 for Hypertext Markup Language – 2.0 by T. Berners Lee and D. Connolly (hereinafter “RFC1866”).

**Grouping of Claims**

For purposes of this appeal, based on the above listed grounds of rejection and their current pending states, all claims 1-20 stand or fall together.

**Arguments:**

- I. Rejection of claims 1, 5-10, 11, and 15-20 under 35 U.S.C. §102(b) was improper because HU failed to teach each and every limitation.

It is well settled that anticipation under 35 U.S.C. §102 requires the disclosure in a single piece of prior art to teach **each and every** limitation of a claimed invention. *Electro Med. Sys. S.A. v. Cooper Life Sciences*, 34 F.3d 1048, 1052, 32 USPQ2d 1017, 1019 (Fed. Cir. 1994). . MPEP 2131 states, “TO ANTICIPATE A CLAIM, THE REFERENCE MUST TEACH EVERY ELEMENT OF THE CLAIM” and “a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Furthermore, anticipation requires that each claim element must be identical to a corresponding element in the applied reference. *Glaverbel Société Anonyme v. Northlake Mktg & Supply, Inc.*, 45 F.3d 1550, 1554 (Fed. Cir. 1995). Thus, to anticipate the present invention, HU must disclose every element recited in the pending claims.

HU fails to anticipate, *inter alia*, at least the required operations of claim 1:

- (a) receiving one or more concept identifiers identifying a plurality of rendering instructions;
- (b) retrieving the rendering instructions based at least in part on one or more of the concept identifiers; and
- (c) rendering the data on the user device using the rendering instructions.

By way of contrast, the disclosure in HU relied upon by the final Office Action (col. 23, lines 46-53) merely teaches of a client 12 generating a graph by:

- (a) running a parser against graph elements received,
- (b) creating an object,
- (c) copying the parsed results into the object, then
- (d) executing a viewer which passes the object to a graph server.

HU, Col. 26, lines 36-54, further teaches that the graph server may also convert the “output” to a format that allows the “output” to be viewed by any browser with bit-map viewing capabilities. The final Office Action attempts to equate “graph attributes” of HU with “concept identifiers”. However, the “graph attributes” of HU merely specify “properties” of a graph to be rendered such as a graph’s “width”, “height” and so forth. The ability to specify different attributes of a graph does not inherently teach or anticipate that different instructions are invoked to render graphs with different attributes. The same set of instructions can be used to render a graph of W x L vs 2W x 2L, by e.g. simply looping through the instructions 2x to generate 2x the number of pixels. Thus, HU’s graph attributes do not anticipate the required “**concept identifiers**”, which “**identify**” rendering instructions to be “**retrieved**” and “**executed**” as set forth in claim 1.

Therefore, it further follows that HU does not teach or anticipate the operations of “**retrieving** the rendering instructions ...based on the received **concept identifiers**”, and “**rendering** the data ... using the **retrieved instructions**” as required by claim 1.

Accordingly, claim 1 is patentable over HU under 102(b).

Claim 11 contains in substance the same limitations as claim 1; and thus, for at least the reasons stated above, claim 1 is patentable over HU.

Claims 5-10 and 15-20 depend from either Claim 1 or 11, incorporating its limitations. Therefore, for at least the same reasons, Claims 5-10 and 15-20 are patentable over HU.

II. Rejection of claims 2-4 and 12-14 under 35 U.S.C. §103(a) was improper because HU, in view of RFC1866, failed to teach each and every limitation.

RFC1866 does not remedy the above-discussed deficiency of HU. Therefore, claims 1 and 11 remain patentable over HU even when combined with RFC1866.

Claims 2-4 and 12-14 depend on either Claims 1 or 11, incorporating their limitations. Therefore, for at least the same reasons, Claims 2-4 and 12-14 are patentable over HU and RFC1866 combined.

**Conclusion**

Appellant respectfully submits that all the appealed claims in this application are patentable and requests that the Board of Patent Appeals and Interferences overrule the Examiner and direct allowance of the rejected claims.

This brief is re-submitted in triplicate, along with Check Number 13347 for \$500.00 to cover the filing of appeal brief. We do not believe any additional fees, in particular extension of time fees, are needed. However, should that be necessary, please charge our deposit account 500393. In addition, please charge any shortages and credit any overages to Deposit Account No. 500393.

Date: September 19, 2005

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'R. C. Peck', written over a horizontal line.

Robert C. Peck, Reg. No. 56,826  
Agent for Appellant Applicants

Schwabe Williamson & Wyatt, P.C.  
1420 Fifth, Suite 3010  
Seattle, WA 98101  
Tel: (206) 622-1711  
Fax: (206) 292-0460



## **Appendix A – Appealed Claims**

1. (Previously Presented) A method for rendering data on a user device, comprising:
  - receiving the data at the user device along with one or more concept identifiers identifying a plurality of rendering instructions;
  - retrieving the rendering instructions based at least in part on one or more the concept identifiers; and
  - rendering the data on the user device, using the rendering instructions.
2. (Previously Presented) The method of claim 1, further including:
  - identifying interactive elements associated with some or all of the data; and
  - setting the interactive elements according to their associated data and rendering the interactive elements using the rendering instructions.
3. (Previously Presented) The method of claim 2, further including:
  - detecting selection of one of the interactive elements;
  - retrieving interaction rules associated with the interactive element; and
  - re-rendering the interactive elements using the interaction rules.
4. (Previously Presented) The method of claim 3 wherein the re-rendering includes retrieving additional data from a remote server using at least in part the selection of the interactive element.
5. (Previously Presented) The method of claim 1 wherein the receiving includes receiving along with the data, one or more corresponding tags representing the one or more concept identifiers.
6. (Previously Presented) The method of claim 5 wherein the rendering includes parsing the data for presentation according to the rendering instructions.
7. (Previously Presented) The method of claim 1 wherein the retrieving includes locally retrieving the rendering instructions at the user device.

8. (Previously Presented) The method of claim 1 wherein the rendering includes formatting an appearance of a visual element using some of the data.

9. (Previously Presented) The method of claim 8 wherein the formatting includes selecting, using the rendering instructions, at least one from the group consisting of a particular color for presenting the visual element, a particular icon for presenting the data, the positioning of the visual element, or a particular symbol for presenting the visual element.

10. (Previously Presented) The method of claim 1 wherein the retrieving includes selecting the rendering instructions based at least in part on a type of the user device.

11. (Previously Presented) An apparatus for rendering data on a user device, comprising:

- a receive module for receiving data at the user device along with one or more concept identifiers identifying a plurality of rendering instructions;

- a retrieve module retrieving the rendering instructions based at least in part on the concept identifiers; and

- a render module rendering the data on the user device, using the rendering instructions.

12. (Previously Presented) The apparatus of claim 11, further including:

- a module for identifying interactive elements associated with some or all of the data; and

- a module for setting the interactive elements according to their associated data and rendering the interactive elements using the rendering instructions.

13. (Previously Presented) The apparatus of claim 12, further including:

- a module for detecting selection of one of the interactive elements;

- a module for retrieving interaction rules associated with the interactive element; and

a module for re-rendering the interactive elements using the interaction rules.

14. (Previously Presented) The apparatus of claim 13 wherein the module for re-rendering includes a module for retrieving additional data from a remote server using at least in part the selection of the interactive element.

15. (Previously Presented) The apparatus of claim 11 wherein the receive module includes a module for receiving along with the data, one or more and corresponding tags representing the one or more concept identifiers.

16. (Previously Presented) The apparatus of claim 15 wherein the render module includes a module for parsing the data for presentation according to the rendering instructions.

17. (Original) The apparatus of claim 11 wherein the retrieve module includes a module for locally retrieving the rendering instructions at the user device.

18. (Currently Amended) The apparatus of claim 11 wherein the render module includes a module for formatting an appearance of a visual element using some of the data.

19. (Currently Amended) The apparatus of claim 18 wherein the module for formatting includes a module for selecting, using the rendering instructions, at least one from the group consisting of a particular color for presenting the visual element, a particular icon for presenting the visual element, positioning of the data, or a particular symbol for presenting the visual element.

20. (Currently Amended) The apparatus of claim 11 wherein the retrieve module includes a module for selecting the rendering instructions based at least in part on a type of the user device.



## **Appendix B – Copies of Evidence Submitted**

No evidence has been submitted under 37 C.F.R. 1.130, 1.131, or 1.132. No evidence entered by Examiner has been relied upon by Appellants in the appeal.